



Virginia  
Regulatory  
Town Hall

## Periodic Review and Retention of Existing Regulations Agency Background Document

<b>Agency Name:</b>	Department of Labor and Industry
<b>VAC Chapter Number:</b>	16 VAC 15-50-10 et seq.
<b>Regulation Title:</b>	Regulation Governing the Employment of Minors on Farms, In Gardens, and In Orchards
<b>Action Title:</b>	Periodic Review
<b>Date:</b>	June 14, 2001

This information is required pursuant to the Administrative Process Act § 9-6.14:25, Executive Order Twenty-Five (98), and Executive Order Fifty-Eight (99) which outline procedures for periodic review of regulations of agencies within the executive branch. Each existing regulation is to be reviewed at least once every three years and measured against the specific public health, safety, and welfare goals assigned by agencies during the promulgation process.

This form should be used where the agency is planning to retain an existing regulation.

### Summary

*Please provide a brief summary of the regulation. There is no need to state each provision; instead give a general description of the regulation and alert the reader to its subject matter and intent.*

This regulation prohibits the employment of minors under 16 years of age in specified occupations on farms, in gardens and in orchards. The regulation exempts children below the age of 16 employed by their parents on their own farms; student learners; and students in Federal Extension Service and 4-H Tractor and Machine Operation Training Programs; and students in Vocational Agricultural Training Programs. Agricultural employers are required to maintain basic records on minor age employees.

### Basis

*Please identify the state and/or federal source of legal authority for the regulation. The discussion of this authority should include a description of its scope and the extent to which the authority is mandatory or discretionary. Where applicable, explain where the regulation exceeds the minimum requirements of the state and/or federal mandate.*

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The legal authority for this regulation is Code of Virginia sections 40.1-6(3), 40.1-100 A 9, and 40.1-114. Under these code sections, the Commissioner of Labor and Industry has the authority and duty to regulate children working in agriculture.

While the regulation is not mandated, the legislative intent of the 1991 revision of the child labor laws applicable to minors employed in agriculture was that certain hazardous occupations would be prohibited occupations for these minors. Also, it was intended that Virginia's child labor laws and regulations in this areas would be similar to the federal laws and regulations.

The occupations that are prohibited are not enumerated in the Code of Virginia. Therefore, one of the regulation's primary purposes is to clearly identify these hazardous occupations for minors employed in agricultural occupations.

### Public Comment

*Please summarize all public comment received as the result of the Notice of Periodic Review published in the Virginia Register and provide the agency response. Where applicable, describe critical issues or particular areas of concern in the regulation. Also please indicate if an informal advisory group was formed for purposes of assisting in the periodic review.*

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No comments from the public were received during the comment period of April 9, 2001 through May 9, 2001. An informal advisory group was not used in the periodic review of this regulation.

### Effectiveness

*Please provide a description of the specific and measurable goals of the regulation. Detail the effectiveness of the regulation in achieving such goals and the specific reasons the agency has determined that the regulation is essential to protect the health, safety or welfare of citizens. Please assess the regulation's impact on the institution of the family and family stability. In addition, please indicate whether the regulation is clearly written and easily understandable by the individuals and entities affected.*

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The goals of the regulation are:

Protect the health, welfare and safety of the minors of the Commonwealth by prohibiting the employment of minors under the age of 16 from working in hazardous occupations.

Protect the public's health, safety and welfare with the least possible cost and intrusiveness to the citizens of the Commonwealth.

Employment of youths is widely accepted and is increasing in that more minors are starting to work at a younger age and are working more hours. Many agricultural employers use minors as a cost-efficient means of supplementing their adult workforce. Under the stress and pressure of operating a business and surviving economically, many employers forget that minors do not have the maturity, experience, wisdom and presence of mind to safely work around truly hazardous equipment.

This regulation is highly effective in reminding, educating, and ensuring that agricultural employers do not place minors in truly hazardous situations. All hazardous occupations in this regulation are demonstrable and proven hazards, even for adults. This regulation is essential in focusing society's attention to the fact that while minors may work at many jobs at age 14, and may work at most jobs at age 16, certain occupations are so clearly dangerous, even to adults, that they should be only performed by mature adults.

The regulation is clearly written and easily understandable.

## Alternatives

*Please describe the specific alternatives for achieving the purpose of the existing regulation that have been considered as a part of the periodic review process. This description should include an explanation of why such alternatives were rejected and this regulation reflects the least burdensome alternative available for achieving the purpose of the regulation.*

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During the development process of this regulation, staff at VPISU was consulted, federal law and regulations in this area were reviewed, and employers in the agricultural field were consulted. Two alternatives were considered by the Department. One alternative was to not regulate child labor on farms at all. The second alternative was to promulgate voluntary, instead of mandatory, guidelines for use by employers. Both alternatives were considered to be inadequate to protect minors working for farm employers and employees to learn about safety and take necessary precautions. Without enforcement accountability, many employers, under the pressure of their duties, would fail to give attention to safety measures. This regulation is thus the least burdensome alternative to ensure that minor age children are protected while employed in agricultural occupations on farms, in gardens and in orchards.

## Recommendation

*Please state that the agency is recommending that the regulation should stay in effect without change.*

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The Department of Labor and Industry is recommending that the regulation remain in effect without change.

**Family Impact Statement**

*Please provide an analysis of the regulation's impact on the institution of the family and family stability including the extent to which it: 1) strengthens or erodes the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourages or discourages economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthens or erodes the marital commitment; and 4) increases or decreases disposable family income.*

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This regulation strengthens the authority of parents by providing controls on employers placing minor age children in dangerous occupations while they are working on farms, gardens or orchards. It also encourages economic self-sufficiency of the minor age children by ensuring that their work experiences are in non hazardous environments. The regulation would also increase the disposable family income by providing safe work environments for minor age children in the family.